IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 31126 of 2018
and
W.M.P. No. 36318 of 2018

M/s. Integral Coach Factory,
Rep. by its Senior Mechanical Engineer/Planning/Shell,
No. 20, Constable Road, South Colony,
ICF Colony,
Chennai - 600 038. ...Petitioner

-vs-

The Assistant Commissioner (CT),
Purasaiwalkam Assessment Circle,
F-50, 1st Avenue, Anna Nagar (East),
Chennai - 600 102. ...Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the Respondent in TIN. 33901061892/2012-13 and quash the order dated 03.07.2017 passed therein.

For Petitioner : Mr. R.Sankaranarayanan,
Additional Solicitor General of India
for Mr. C.V.Ramachandramurthy and
Mrs. Hema Muralikrishnan,
Standing Counsel

For Respondent : Mr. A.N.R.Jayaprathap,
Government Advocate (Taxes)

O R D E R
(through video conference)

Heard Mr. R.Sankaranarayanan, Learned Additional Solicitor General of India assisted by Mr. C.V.Ramachandramurthy and Mrs. Hema Muralikrishnan, Learned Standing Counsel appearing for the Petitioner and Mr. A.N.R.Jayaprathap, Learned Government Advocate (Taxes) appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Respondent passed the Order No TIN: 33901061892/2012-13 dated 03.07.2017 for the year 2012-2013 under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the 'TNVAT Act' for short) in respect of the Petitioner to whom the copy of the order had been despatched through Registered Post on 10.07.2017 and the receipt of which is accepted by the Learned Counsel for the Petitioner. The Petitioner was entitled to prefer appeal against that order under Section 51 of TNVAT Act, within a period of 30 days from the date of its receipt before the Appellate Authority, who has been empowered to condone delay in filing such appeal for an extended period of 30 days, if sufficient cause for not preferring appeal within that period is made out. However, the Petitioner did not prefer any such appeal before the Appellate Authority, but has instead filed this Writ Petition on 20.11.2018 challenging the order passed by the Respondent beyond the maximum limitation period of 60 days from the date of receipt of copy of that order.

3. The Hon'ble Supreme Court of India in Assistant Commissioner (CT) LTU, Kakinada -vs- Glaxo Smith Kline Consumer Health Care Limited (Order dated 06.05.2020 in Civil Appeal No. 2413 of 2020) has emphatically laid down that the High Court in the exercise of powers under Article 226 of the Constitution of India ought not to entertain Writ Petition assailing the order passed by a Statutory Authority which was not appealed against within the maximum period of limitation before the concerned Appellate Authority. Viewed from that perspective, this Court is not inclined to delve into the merits of the controversy involved in the matter. At the same time, it is made clear that the Petitioner shall not be precluded from working out its rights for rectification of the impugned order by proceedings under Section 84 of the TNVAT Act, if it is otherwise entitled, in accordance with law and that no view has been expressed by this Court on the correctness or entitlement of the claim made by the Petitioner in that regard.

4. In the result, the Writ Petition is dismissed with the aforesaid clarifications. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vjt

To

The Assistant Commissioner (CT),
Purasaiwalkam Assessment Circle,
F-50, 1st Avenue, Anna Nagar (East),
Chennai - 600 102.

+1cc to Special Government Pleader(Taxes), S.R.No.40300

W.P. No. 31126 of 2018

SS(CO)
KKV/16/12/2020